

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P3013/PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/002782	International filing date (day/month/year) 18.03.2004	Priority date (day/month/year) 20.06.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant BREYER GMBH MASCHINENFABRIK		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.
3.	This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4.	This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input checked="" type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/002782

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

- ☐ international search (Rule 12.3 and 23.1(b))
☐ publication of the international application (Rule 12.4)
☐ international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

☐ the international application as originally filed/furnished

☒ the description:

pages 1, 3-9 as originally filed/furnished

pages* 2, 2a received by this Authority on 15.04.2005 with letter of 15.04.2005

pages* _____ received by this Authority on _____

☒ the claims:

nos. _____ as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19

nos.* 1-12 received by this Authority on 15.04.2005 with letter of 15.04.2005

nos.* _____ received by this Authority on _____

☒ the drawings:

sheets 1/4-4/4 as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/002782

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1-12</u>	YES
	Claims _____	NO
Inventive step (IS)	Claims <u>1-12</u>	YES
	Claims _____	NO
Industrial applicability (IA)	Claims <u>1-12</u>	YES
	Claims _____	NO

2. Citations and explanations (Rule 70.7)

This report makes reference to the following documents:

- D1: US-A-3 067 464 (RAYMUND NICHOLSON FRANK), 11
December 1962 (1962-12-11)
- D2: PATENT ABSTRACTS OF JAPAN, Vol. 2002, No. 02, 2
April 2002 (2002-04-02) & JP 2001 293767 A
(TOSHIBA MACH CO LTD), 23 October 2001 (2001-10-
23)
- D3: PATENT ABSTRACTS OF JAPAN, Vol. 0142, No. 09
(M-0968), 27 April 1990 (1990-04-27) & JP 02
047030 A (SUMITOMO HEAVY IND LTD), 16 February
1990 (1990-02-16)
- D4: US-B1-6 663 375 (ULCEJ JOHN A), 16 December 2003
(2003-12-16)

Document D1 is considered to constitute the prior art
closest to the subject matter of claim 1 and discloses
(the references in parentheses are to that document):

an **extrusion nozzle** having at least one flexible lip
element for ejecting extruded material from a slot whose
flow cross-section is variable, the at least one flexible
lip element being movable relative to the other lip

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

elements by a plurality of lever elements which can be actuated together.

The subject matter of claim 1 therefore differs from the known nozzle in that the plurality of lever elements are mounted at one end in a groove in the ejection area and at the other end swivellingly engage a slide in the nozzle body or in a retaining element associated with the nozzle body, the slide being supported on the nozzle body and/or retaining element.

The subject matter of claim 1 is therefore novel (PCT Article 33(2)).

The present invention can therefore be considered to address the problem of reducing the high forces required to displace the nozzle body, and to ensure a common, homogenous and uniform variation of the slot over its entire width in a single operation; see page 2, paragraph 1, of the description.

The solution to this problem, as proposed in claim 1 of the present application, involves an inventive step (PCT Article 33(3)) for the following reasons: the combination of features in the solution defined in claim 1 is unknown from the available prior art (e.g. D1, D2, D3 and D4). For this reason, a person skilled in the art would not be prompted to use these features to solve the problem addressed.

Claims 2-12 are dependent on claim 1 and therefore also meet the PCT novelty and inventive step requirements.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

Application No.
Patent No.Publication date
(day/month/year)Filing date
(day/month/year)Priority date (valid claim)
(day/month/year)

Should the claimed priority date be recognised for the relevant parts of the present application, document D4, designated as a P document in the search report, will not be considered prior art.

2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure

Date of non-written disclosure
(day/month/year)Date of written disclosure
referring to non-written disclosure
(day/month/year)